

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1020P7730

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on July 14, 2008Signature /Spencer A. Bartl/Typed or printed name Spencer A Bartl

Application Number

09/599,000

Filed

06/22/2000

First Named Inventor

Arlin R. Davis

Art Unit

2616

Examiner

Kevin D. Mew

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Robert V. Racunas/

Signature

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Robert V. Racunas

Typed or printed name

☒ attorney or agent of record. 43,027

Registration number

724-933-9344

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

July 14, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below.

☐ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 1.15. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	09/599,000	Confirmation No.:	8544
Applicant	:	Arlin R. Davis		
Filed	:	6/22/00		
TC/A.U.	:	2616		
Examiner	:	Kevin D. Mew		
Docket No.	:	1020.P7730		

Title: LOCAL AREA NETWORK EMULATION OVER A CHANNEL BASED
NETWORK

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant has carefully reviewed and considered the Final Office Action mailed on April 14, 2008 and the cited references. In response to the Final Office Action, Applicant respectfully requests review prior to the filing of an Appeal Brief.

Claim Rejections – 35 USC §103(a)

Claims 1, 3-10, 12-13, 31 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPN 6,321,276 to Forin ("Forin") in view of US 2002/0062402 to Regnier et al. ("Regnier") and further in view of USPN 6,741,585 to Munoz et al. ("Munoz").

Claims 14, 17-23 and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Forin in view of Regnier and US 2002/0016926 to Nguyen et al. ("Nguyen") and further in view of Munoz.

Claims 27-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Forin in view of Nguyen and further in view of Munoz.

Applicant respectfully traverses the rejections, and requests reconsideration and withdrawal of the obviousness rejections.

REMARKS

35 USC §103(a) Rejections

Applicant respectfully submits that the cited references fail to teach each and every element recited in claims 1, 3-10, 12-14, 17-23, 25-29, 31 and 33. Therefore claims 1, 3-10, 12-14, 17-23, 25-29, 31 and 33 define over the cited references whether taken alone or in combination. For example, claim 1 recites the following language, in relevant part:

a first work queue pair comprising descriptors to describe data to be transmitted from a first node to a remote node of a local network and to describe where to store data received from the remote node to establish a connection-oriented virtual interface (VI) channel between the first node and the remote node in the local network based on a local physical address of the remote node, wherein the remote node comprises a second work queue pair and wherein the connection-oriented VI channel is established by associating the first work queue pair with the second work queue pair....

According to the Office Action, this language is disclosed by Forin at column 6, lines 47-55, column 15, lines 37-49 and column 17, lines 32-51. Applicant respectfully disagrees.

Applicant respectfully submits that claim 1 defines over Forin. Forin at the given cites, in relevant part, states:

Each virtual interface 106 may comprise a send queue 107 and a receive queue 108. In order to request an I/O operation, the VI user agent I/O posts descriptors to the send and receive queues. A descriptor is a data structure specifying information to assist the recoverable I/O request processor 60a of the VIA network interface adapter 100 to process an I/O request... (col. 15, lines 37-43).

...the recoverable I/O request processor receives a pointer to the descriptor corresponding to the send () operation. The pointer may have been previously posted in the send queue by the VI user agent In step ST2, the recoverable I/O request processor attempts to translate the virtual memory address of the descriptor using page tables local to the VIA network interface adapter. The recoverable I/O request processor 60a then determines whether the translation was successful. (step ST3) If the translation was successful, the recoverable I/O request processor processes the send () request. (col. 17, lines 32-42).

Applicant respectfully submits that this is different than the above recited language of independent claim 1.

Applicant respectfully submits that Forin fails to teach at least first and second work queue pairs at the first and remote nodes, respectively, "wherein the connection-oriented VI channel is established by associating the first work queue pair with the second work queue pair," as recited in claim 1. Applicant respectfully submits that Forin at the above citation, arguably, teaches send and receive queues that contain descriptors that are translated using page tables to determine if a transmission was successful. Applicant respectfully submits that this is clearly different than the above recited language of claim 1.

Moreover, Applicant respectfully submits that determining if a transmission was successful, as arguably taught by Forin, is different than establishing a VI connection by associating work queues as recited in claim 1. Moreover, Applicant submits that Regnier and Munoz also fail to disclose the missing language. Therefore, Applicant respectfully submits that Forin, Regnier and Munoz, taken alone or in combination, fail to teach each and every element recited in independent claim 1 and withdrawal of the obviousness rejection with respect to claim 1 is respectfully requested.

Furthermore, Applicant respectfully submits that claim 1 additionally recites the following language, in relevant part:

wherein the local physical address of the remote node is embedded or provided within the legacy physical address of the remote node.

As correctly noted in the Office Action on page 5, Forin "does not explicitly show the second physical address is embedded within the first physical address." According to the Office Action, this language is disclosed by Munoz at column 2, lines 10-30. Applicant respectfully disagrees.

Applicant respectfully submits that the above recited language of claim 1 defines over Munoz. Munoz at the given cites, in relevant part, states:

... a system that uses encapsulated/mapped addresses with routing protocol dissemination of reachability information in an internetwork that includes a first network using first network addressing communicating via one or more internetworking gateways with a second network using second network addressing. The gateways register one or more first network addresses in the second network as first network address-encapsulated or -mapped second network addresses. Reachability information regarding the first network address-encapsulated or -mapped second network addresses is then disseminated through the second network. When a communication request containing a first network destination address is received at one of the gateways, the receiving gateway

performs encapsulation or mapping of the first network destination address into a first network-encapsulated or -mapped second network destination address. It then routes a communication request containing the first network-encapsulated or -mapped second network destination address through the second network based on the disseminated reachability information.

Applicant respectfully submits that this is different than the above recited language of independent claim 1.

Applicant respectfully submits that Munoz at the given citation, arguably, teaches a first network with first network addressing and a second network with second network addressing wherein gateways perform mapping of the first network destination address into a first network-encapsulated or mapped second network destination address. Applicant respectfully submits that altering the form of a first network address, as arguably taught by Munoz, is different than embedding a first physical address within a second physical address as recited in claim 1. Therefore, Applicant respectfully submits that Munoz fails to disclose the missing language. Applicant respectfully submits that Forin and Regnier also fail to disclose the missing language. Consequently, Forin, Regnier and Munoz, whether taken alone or in combination, fail to teach every element recited in claim 1.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, removal of the obviousness rejection with respect to claim 1 is respectfully requested. Claims 3-5 also are non-obvious and patentable over the cited references, taken alone or in combination, at least on the basis of their dependency from claim 1. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

Applicant respectfully submits that independent claims 6, 14, 21, 27, 31 and 33 recite features similar to those recited in claim 1. As recited above, Applicant respectfully submits that Forin, Regnier and Munoz fail to teach each and every element recited in claim 1. Furthermore, Applicant respectfully submits that Nguyen also fails to teach, suggest or disclose the above recited missing language. Therefore, Applicant respectfully submits that claims 6, 14, 21, 27, 31 and 33 are not obvious and are patentable over the cited references, taken alone or in combination, for reasons analogous to those presented above with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect

Appl. No. 09/599,000
Request Dated July 14, 2008
Reply to Office Action of April 14, 2008

Docket No.: 1020.P7730
Examiner: Mew, Kevin D.
TC/A.U. 2616

to claims 6, 14, 21, 27, 31 and 33 and claims 7-10, 12-13, 17-20, 22-23, 25-26 and 28-29 that depend from claims 6, 14, 21, 27, 31 and 33 respectively. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

For at least the reasons given above, claims 1, 3-10, 12-14, 17-23, 25-29, 31 and 33 are non-obvious and represent patentable subject matter in view of the cited references, whether taken alone or in combination. Accordingly, removal of the obviousness rejection with respect to claims 1, 3-10, 12-14, 17-23, 25-29, 31 and 33 is respectfully requested. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1, 3-10, 12-14, 17-23, 25-29, 31 and 33 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Respectfully submitted,

KACVINSKY LLC

/Robert V. Racunas/

Robert V. Racunas, Reg. No. 43,027
Under 37 CFR 1.34(a)

Dated: July 14, 2008

KACVINSKY LLC
C/O Intellevate
P.O. Box 52050
Minneapolis, MN 55402
(724) 933-5529